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ACTION JUSE-00

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INFO	LOG-00	NP-00	AMAD-00	CIAE-00	INL-00	DODE-00	DS-00
	EAP-00	EUR-00	FBIE-00	UTED-00	FRB-00	H-00	TEDE-00
	INR-00	LAB-01	L-00	M-00	DCP-01	NSAE-00	TFBI-00
	SCT-00	SSO-00	SS-00	TEST-00	ASDS-00	FMP-00	DSCC-00
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FM AMEMBASSY BERLIN
TO SECSTATE WASHDC PRIORITY 7949
INFO FRG COLLECTIVE
EU MEMBER STATES
DEPT OF JUSTICE WASHDC

UNCLAS BERLIN 000118

SENSITIVE

STATE FOR EUR/AGS, EUR/PPD, S/CT, and L/LEI
JUSTICE FOR TERESA WALLBAUM, MIKE BURKE

E.O. 12958: N/A
TAGS: PTER, KJUS, PREL, GM, PGOV
SUBJECT: TERRORISM: HAMBURG TRIAL OF 9/11 SUSPECT MZOU DI,
MOTASSADEQ APPEAL

REF: 03 Berlin 4239

1. (U) Please see action request at para 8.

Summary

2. (SBU) The trial of 9/11 suspect Abdelghani Mzoudi is coming to an end. Final arguments commenced January 8 with the prosecution seeking the maximum sentence of fifteen years. The court denied a joint plaintiffs' motion to summon Federal Interior Minister Otto Schily to testify about his alleged discussions with U.S. officials regarding the court's access to further U.S. evidence. A verdict is now expected on January 22. End Summary

Prosecution Seeks Maximum 15 years

3. (SBU) In their final arguments January 8, prosecutors

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sought the maximum sentence of fifteen years for Mzoudi on the original charges of more than 3,000 counts of accessory to murder and membership in a terrorist organization. They argued that the court, in its decision to release Mzoudi from detention, had relied on "mere speculation" based on an exculpatory anonymous testimony forwarded by the Federal Criminal Police, which the Court assumed came from detained terrorist Ramzi Binalshibh (reftel). On January 5, the court denied all motions by the prosecution for introduction of further evidence.

----- Testimony of Schily Denied -----

4. (SBU) On January 9, lawyers of victims joined in the proceedings filed a motion to call Federal Interior Minister Schily as a witness. They asserted that, in early December before the exculpatory document from the BKA was released to the court, Schily had traveled to the U.S. to discuss with U.S. officials whether further evidence regarding Binalshibh's testimony could be released to the court. The joint plaintiffs' attorney argued Schily must therefore have additional information regarding Binalshibh's testimony. The court denied the motion.

----- Further Procedure -----

5. (U) Final defense arguments are scheduled for January 15. Announcement of the verdict is set for January 22.

----- Motassadeq Remains in Detention -----

6. (SBU) In its January 8 decision, the Federal Supreme Court denied the appeal of convicted 9/11 conspirator Mounir el Motassadeq and upheld the Hamburg Higher Regional Court's decision that he remain in custody. In their complaint, appellants had argued Motassadeq should also be released pending the outcome of his appeal as in the Mzoudi trial. In its decision, the Supreme Court distinguished the Motassadeq case from the Mzoudi case by ruling that Motassadeq had already been judged guilty and new evidence is therefore not relevant in an appeal to the Supreme Court. (Note: the Supreme Court is scheduled to rule on Motassadeq's appeal on January 29. end note)

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Comment

7. (SBU) According to press reports, the court is anxious to wrap up the Mzoudi trial. Reports note the court has advised the defense to hold all pending motions until after the announcement of the verdict. Observers cite this, along with the court's precipitous revocation of the arrest warrant against Mzoudi, as indications a conviction is doubtful.

Action Request

8. (U) Embassy would appreciate any contingency press guidance post can use after the verdict -- whether conviction or acquittal -- is announced.
COATS

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